

## REMARKS

Applicant appreciates the thorough examination of the present application as evidenced by the Office Action mailed August 25, 2003.

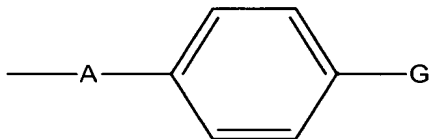
Claims 1-5 and 7 are pending. Claim 1 has been amended. Claims 3, 4 and 6 have been cancelled to advance prosecution to remove non-elected subject matter.

Notice of receipt of the priority papers is acknowledged.

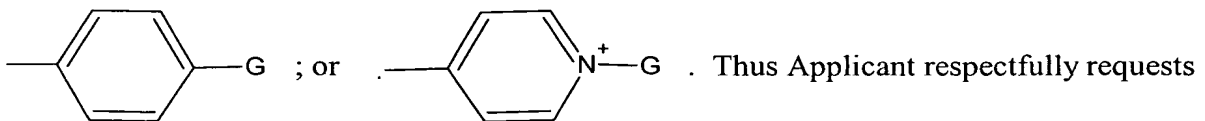
### I. §102 Rejections

Claims 1-5 and 7 stand rejected under 35 USC §102(b) or §102(e) as being anticipated by: CAS Registry No. 179028-63-3, CAS Registry No. 173536-26-0, Gallaher et al. (2000), Gallaher et al. (1999), Bosies et al., Flanagan, Jr., Hourhoff et al., Fabricius et al., Harada et al., Lipowska et al., Srekowski et al., Muehlegger et al., Frangioni and Narayanan for the reasons set forth in the Office Action mailed August 25, 2003.

In order to expedite prosecution of the present application, Applicant has amended Claim 1. The following D moiety has been deleted:



Applicant believes that none of the references teach the other D moieties, namely



the §102(b) and §102(e) rejections be withdrawn.

### II. §103 Rejection

Claims 1-5 and 7 are rejected under 35 USC §103(a) as being unpatentable over Fabricius et al. or Narayanan for the reasons set forth in the August Action.

The test of obviousness is what the teachings of the references **would have suggested** to those of ordinary skill in the art. *See In re Keller*, 642 F.2d 413, 208 USPQ

In re: Caputo et al.  
Serial No.: 10/038,554  
Filed: January 2, 2002  
Page 10 of 10

871 (CCPA 1981) (emphasis added). Additionally, it is also well-established that the mere fact that references can be modified does not render the resultant combination obvious **unless the prior art also suggests the desirability of the combination**. M.P.E.P. §2143.01, citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990) (emphasis added).

In view of the amendments to Claim 1, none of the moieties recited for D are suggested to one skilled in the art by Fabricius or Narayanan. Accordingly, Applicant respectfully requests that the §103(a) rejection be withdrawn.

Applicant submits that the present application is now in condition for allowance and the same is respectfully requested. Any questions that the Examiner may have regarding this correspondence can be directed to the undersigned who may be reached at (919) 854-1400.

Respectfully submitted,

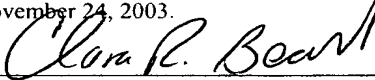


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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 24, 2003.



Clara R. Beard